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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,404	06/20/2003	Vincent Chow	3614/171	9763

7590

11/01/2005

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EXAMINER

SCHAETZLE, KENNEDY

ART UNIT

PAPER NUMBER

3766

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

THK

Office Action Summary	Application No. 10/600,404	Applicant(s) CHOW ET AL.	
	Examiner Kennedy Schaetzle	Art Unit 3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 57-77 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 57-77 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/20/03, 8/19/04</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 57-65 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyers (Pat. No. 4,991,183).

Meyers discloses a first light receiver (objective lens), a light processor (image intensifier with gain control) coupled thereto, to provide image-based control based on the ambient image, a light projector (phosphor screen) to provide light output based on the image-based control, and a second light receiver adapted to receive at least the light output (ocular lens/eyepiece).

3. Claims 57, 60-63, 65-67, 70 and 71 are rejected under 35 U.S.C. 102(b) as being anticipated by Taniguchi et al. (Pat. No. 4,509,842).

Claim 57 is clearly anticipated (see Fig. 4).

The examiner wishes to point out that the claims in their present state are so broad that they would read on a multitude of common optical systems from night-vision goggles, to cameras, to photocopy machines, to light projectors, to military tracking and weapons guidance systems, etc. For example, the examiner takes Official Notice that a standard camera or an SLR (see Fig. 4 of Taniguchi et al., for example) has a first light receiver (the lens), a light processor coupled to the first light receiver to provide image-based control based on the ambient image (e.g., autofocus, white balance, automatic exposure, etc., implemented by the image processing circuitry), a light projector coupled to the light processor to provide light output based on the image-based control (i.e., the flash, the display screen, other lenses and prisms etc.), a second light receiver adapted to receive at least the light output (e.g., film, a charge-coupled device for receiving the light of the flash and ambient image in digital cameras, the ocular viewing lens, a pair of

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eyeglasses used by the camera operator to view the screen, etc.), infrared light generators for illuminating night images, reflective mirrors for redirecting light within the camera body, etc., etc.. Further, since the retina must be stimulated in order for the camera operator to view the image, the system can be considered a retinal stimulator. With so many potential systems reading on the applicant's claims and the fact that the examiner cannot be infinitely knowledgeable of all the internal workings of such systems, the examiner begs the applicant to limit the claims, in the very least, to medical devices so as to limit the extent of the search required –a vast search that clearly taxes the already limited time given the examiner to process the applicant's invention.

Regarding claim 76, the examiner considers the autofocus feature of the Taniguchi et al. device that drives the objective lens to be a pupil-tracking device for controlling the orientation of the lens. If the device is focused on a subject's eye/pupil, the autofocus feature will attempt to track the eye/pupil and bring it into focus as the subject moves towards and away from the camera system.

4. Claims 57-61, 64, 68-73 and 77 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Filipovich et al. (Pat. No. 5,254,852).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 68, 69, 72-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyers (claims 68, 69, 72-75) or Taniguchi et al. (claims 68, 69, 72-77).

While neither Meyers nor Taniguchi et al. discuss the use of a headset comprising a "glasses-like" configuration, the examiner takes Official Notice that night vision systems are commonly incorporated into goggles for ease of use and hands-free

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operation, as well as camera systems for the same reasons. Those of ordinary skill in the imaging arts would have seen the obviousness of modifying the system of Meyers or Taniguchi et al. to incorporate goggles or a head-mounted system depending upon the application at hand.

Conclusion

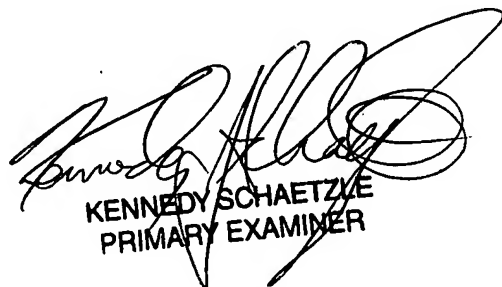
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kennedy Schaetzle whose telephone number is 571 272-4954. The examiner can normally be reached on M-W and F from 9:30 -6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on M-F at 571 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KJS
October 28, 2005



KENNEDY SCHAETZLE
PRIMARY EXAMINER